BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

RANDY BRYANT)
Claimant VS.)) Dealest No. 106 053
CONCO, INC.) Docket No. 196,053
Respondent AND)
ITT HARTFORD Insurance Carrier	

ORDER

Respondent appeals from a February 7, 1995, Preliminary Hearing Order by which Administrative Law Judge John D. Clark granted claimant's requests for payment of outstanding medical expenses as authorized medical, for authorization of Michael Munhall, M.D. as treating physician and for payment of temporary total disability compensation.

Issues

On appeal, respondent contends the Administrative Law Judge exceeded his jurisdiction by granting benefits because the evidence does not establish that claimant suffered an accidental injury which arose out of and in the course of claimant's employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds that claimant has failed to meet his burden of proving that he sustained personal injury by accident arising out of and in the course of his employment with respondent. The weight of the credible evidence supports a conclusion that claimant's back injury was not work related. Claimant admitted to supervisors on two (2) occasions

that the accident was not work related. In addition, claimant's description of the accident does not correspond with the testimony of claimant's co-worker who was with the claimant at the time of the alleged accident. The fact that the claimant described his injury as work related to his family physician the day following the alleged accident does not, in the opinion of the Appeals Board, overcome the overwhelming evidence to the contrary.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the February 7, 1995, Order of Administrative Law Judge John D. Clark should be, and the same is hereby, reversed and preliminary benefits are hereby denied.

IT IS SO ORDERED.
Dated this day of April 1995.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER

c: Frances A. Hartman, Wichita, KS Robert G. Martin, Wichita, KS John D. Clark, Administrative Law Judge George Gomez, Director